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ART. I. — THE ELECTORAL COMMISSION AND ITS BEARINGS.

Now come the President and Vice-President of Mexico to our hospitable shores — the latest fugitives from the "halls of the Montezumas" — to repeat to us the old, old story of revolution in a Spanish-American state over a disputed Presidential election. The latter, to an enterprising reporter at San Francisco, hastened to disburden himself of the precious tale of a coerced election, a broken law, successful revolt, fleeing officials, and a dictator installed in power; and he foresees another sham election in the near future, and fresh outbreaks following it. More recently the former, upon arriving at New York, gave his version of the same transactions, including his own grievances and expulsion from power.

When Mr. Bancroft, in his eulogy upon Lincoln, in a voice which penetrated to the farthest corners of the Representatives' Hall, and startled the diplomatic representatives of foreign powers, exclaimed, "Mexico shall rise again!" his audience broke into loud applause. His voice sounded in their ears as the voice of the New World to the Old, pronouncing the utter expulsion of monarchy from an American state, and warning all Eastern powers against meddling with Western institutions. The end soon came of the Mexican monarchy: Maximilian was slaughtered by Escobedo, and Juarez reigned in his stead; and thereat all the people rejoiced, regarding the event as a gracious deliverance of their country from foreign interference, and a signal vindication of their right of self-government. But the hopes of orderly free govern-

ment then indulged in by the Mexican nation have not been realized. Disturbed political conditions have characterized that country ever since, the latest phases of which have been, as above mentioned, described to us by our fugitive guests, Iglesias and Lerdo, who appear to look hopefully forward to fresh convulsions and changes as means for the redemption of their country from the despotism of their successor.

But this most recent story of republican turbulence in Mexico does not differ in its general features from former ones which we have heard from other Spanish-American states. In all those states the revolutionary disease appears to be chronic, manifesting itself repeatedly, unsettling the business pursuits of the people, and constituting a great obstacle to all improvement and progress in wealth and civilization. In the dozen of them south of us, between 1858 and 1861, or within a period of three years, there was revolt against government in all but two, in every case arising more or less directly from a disputed presidential election.

Admonished by these examples, by our own civil war as connected with the election of 1860, and by the recent peril in the ascertainment of electoral returns, we may well turn our attention to our electoral system for the choice of President and Vice-President, to ascertain wherein it has been shown to be defective by time and trial, and prepare ourselves, without delay, for its correction and amendment.

It was the intention of the framers of the Constitution of the United States to remove the election of President from popular excitement and controversy, by vesting the power of choice in select bodies of men distinguished by experience and wisdom. But the provisions directed to that end have entirely failed of their purpose. It is, therefore, very generally agreed that electors and electoral colleges, as features of our system, are useless, if not pernicious, and may be properly dispensed with in future, if some convenient and acceptable substitute for them can be provided. It is also generally agreed that some regulations, constitutional or statutory, should be provided for the orderly and just decision of contested returns of elections. But no complete view of the subject of amendment can be obtained without a preliminary examination of all the main defects of the present system, and a consideration of the evils and dangers to which they lead. Such

examination cannot be here fully made, but it may be made as to several defects which have an intimate connection with remedial propositions to be presently mentioned, the statement of which is the principal object of this article.

1. Our system permits the election of candidates who receive a minority of the popular vote, so that upon occasion the spectacle may be presented of a complete inversion of the republican principle that the greater number of voices at an election shall prevail. It will always be impossible to reconcile the mass of the people to results in flat contempt of the majority rule, applied to popular elections, and persistent defiance of that rule must lead to ultimate disaster. A candidate for President who shall receive a clear majority of the whole popular vote of the country cannot be excluded from office without much dissatisfaction among the people and a weakening of confidence in republican institutions.

2. It permits plurality candidates, and even those not highest in vote as such, to obtain majorities in electoral colleges; in fact, the vote of candidates in those colleges bears no just proportion to the popular vote which they have received. A notable illustration of this is furnished by the election of 1860, in which each electoral vote cast for Mr. Douglas represented 114,596 popular votes, while each electoral vote for Mr. Lincoln represented but 10,369; and in 1864 the popular ratio for the Lincoln electors was 10,292, and for McClellan electors, 86,274.

3. Another practical result of our system, quite unforeseen by the framers of the Constitution, and one greatly to be deprecated, may occur at any election, and did very nearly occur in the election of 1860, above mentioned. The Constitution provides that in case no candidate shall receive a majority of all the electoral votes, the House of Representatives, voting by States, shall choose the President from among the three candidates highest in vote. Turning to the election returns of 1860, we obtain the following statement: —

	Popular Vote.	Electors.
Lincoln	1,866,452	180
Douglas	1,375,157	12
Breckenridge	847,953	72
Bell	590,631	39

In proportion to the popular vote, Mr. Lincoln should have had 121 electors, Douglas 89, Breckenridge 55, and Bell 38. If there

had been a slight diversion of votes from Mr. Lincoln in certain States, the election would have been sent to the House of Representatives, which body would have been confined in its choice to the three candidates highest in electoral votes, and Douglas would have been excluded, although second highest in popular vote. The fact that South Carolina chose electors by her legislature, and the further fact that in the Southern States there was a three-fifths representation of slaves, if taken into account, will not materially change the above exhibit of electoral and popular votes.

4. Objection may also be made to our present system because, in case of no choice by the electoral colleges, it sends the choice of President to an expiring House of Representatives. A new House chosen at the same time when a new President is voted for by the people, and supposed to represent public opinion at that time and afterwards, is not called upon to perform this constitutional duty, but the old House, within a month of its dissolution and possibly after it has been virtually condemned at the preceding election. It must often happen that a great political change will be decreed by the people, at a presidential election, in both the executive and legislative branches of the government, and it is against all reason, in such a case, that a condemned and expiring House shall be permitted to choose the President from among the three candidates highest in vote. It is true that in the present year we have an exceptional case; for the old House taken *per capita* or by States is Democratic, while the new House, counted *per capita*, will be Democratic, and by States will be Republican. But, however the present political situation may be viewed, there can be no question that the choice of President should be made by an incoming instead of an outgoing House. And it is submitted that a change which should fix the commencement of service by a new Congress some time before the expiration of a presidential term, and immediately after its members shall have been elected, would be advantageous, not only with reference to presidential elections, but also with reference to ordinary legislation, inasmuch as it is against propriety that one Congress should pass laws after another one, to succeed it, shall have been chosen.

5. The Constitution makes no express provision for determining contests upon returns of presidential elections, nor has Federal legislation made provision for them. Implications of power in

cases of contest have been drawn from the Constitution in favor of the President of the Senate and in favor of the two Houses of Congress acting concurrently or jointly, and it seems clear that regulations, more or less extensive, applying to this subject-matter, may be enacted by Congress under its general authority to make all laws necessary and proper to carry into execution the powers vested by the Constitution in the government of the United States, or in any department or office thereof. It has been found difficult to draw the exact boundary between Federal and State jurisdiction in presidential elections, and there may be even a question whether over a certain portion of this field of power the jurisdiction of both is not concurrent, or at all events jurisdiction permissive to the States until Congress shall interpose. The manner of appointing electors in each State is to be directed by its Legislature, and where, under this power, a popular election has been directed as to the manner of appointing, all that pertains strictly to such an election may be held to fall within State jurisdiction. In such case a popular election constitutes the appointment intended by the Constitution, but it does not follow that the verification of the result, any more than the meeting of electors and their proceedings and returns, is beyond review or control by the government of the United States. Certainly it seems clear that all the provisions of the Constitution relating to presidential elections, except the one relating to the manner of appointing electors, can be enforced by the Federal government, and consequently that regulations to that end may be enacted by Congress. Among others, the provisions that electors shall be chosen at a fixed time, that certain holders of office shall be excluded from appointment as such electors, that electors shall be in fact appointed by their States, and shall meet on a uniform day, and all the provisions relating to the proceedings of colleges and their returns, invite to acts of legislation by Congress which shall provide all regulations necessary to their complete enforcement.

Into this very field of inquiry as to the powers of the Federal government over returns of presidential elections, the two Houses of Congress were compelled to go at the present session, in consequence of double returns sent up to them from one Western and three of the Southern States, and thereupon they found themselves greatly embarrassed by the absence of definite laws, funda-

mental or statutory, to direct them and to control their action. Between the two Houses, and between the two great parties of the country represented by them, the conflict of opinion was intense, and to bridge over the difficulties of the time a very peculiar and extraordinary measure of legislation was adopted.

The Electoral Commission Act of 1877.

This special statute, limited to a single occasion by its express terms, will hardly constitute a model for future legislation; for it is not to be expected that in any future election the facts will be the same with, or closely analogous to, those of the recent contest. The Act was framed in view of the existence of a Republican majority in the Senate and a Democratic majority in the House of Representatives (giving promise of disagreement between the two Houses in their joint meeting at the electoral count), of the double electoral returns from Florida, Louisiana, Oregon, and South Carolina respectively, arising from very peculiar but variant circumstances and political conditions in those States, and of the predilections, actual or supposed, of certain Judges of the Supreme Court of the United States. Besides, the prior relations of the Administration to the elections and returns of some of the States just mentioned, and the conflicting reports of Congressional Committees, were taken into account in the preparation of the bill. Its form was due, therefore, to the facts of the cases to which it was to be applied, and was controlled by them. But in future cases, when both Houses shall be of one political complexion, when questions arising upon returns shall be different in character, when the attitude of an existing Administration to the election shall be free from embarrassment or imputation of interference, and when the composition of the Supreme Court shall be unsuited to purposes of umpirage or to consultation by Congress, the provisions of this Commission Act, or most of them, may be quite unsuitable and objectionable. It follows that they cannot be made the basis, or accepted as constituting a model for a general and permanent statute. Conceding that the Act was fit and necessary, constitutional and judicious, its merit was that of a temporary measure only, and it must be critically examined whenever urged as a precedent in future times.

A Permanent Statute required.

There should be a carefully drawn statute for judicial investigation of contests upon returns, whether of electors or electoral votes. This would not interfere with any constitutional power to count votes, whether that authority is to be placed by inference in the President of the Senate, or in the two Houses of Congress, or be held to be wholly subject to regulation by statute. The extent to which such investigation shall go, the time of making it, the rules of procedure, the designation of the court, judge, or judges by whom or before whom the investigation shall be had, the character and force of the decision to be pronounced and how the same shall be recorded or certified, are matters of detail fit and proper for statutory regulation and not for constitutional amendment. If any constitutional provision upon the subject of contested returns or votes shall be proposed, its form might be borrowed in part from the 17th Section of the 8th Article of the Constitution of Pennsylvania, including the very judicious clause that no law vesting jurisdiction or regulating its exercise shall apply to a contest arising out of, or consequent upon, an election held before its passage.

No one can fairly assert that the presiding officer of the Senate ought to be empowered to pass judgment upon contested returns. He may be interested personally as a candidate for one of the offices voted for, he may not possess legal training and knowledge qualifying him to pass upon the questions presented, he will have no authority to take evidence unless conferred by legislation, and, when a *pro tempore* officer, cannot act independently of the Senate, because that body may displace him at will. Besides, he must be commonly a chief of party, and as such his single opinion will not carry with it that weight and influence which the decisions to be made will imperatively demand.

Nor ought the two Houses of Congress, acting concurrently or jointly, to undertake the decision of such contests in most cases. Legislative bodies are not fitted for the exercise of judicial functions. They are too large to work with convenience and expedition, too impatient for careful examination of complicated facts and nice points of law, too passionate for calm judgment. From the number of members the sense of individual responsibility is slight, and the majority represents a political party, the fortunes

and even the existence of which may depend upon the decision to be made. Hence decisions by such bodies, even upon contested rights of membership therein, are not to be relied upon and have fallen into disrepute. Even the Grenville Act of 1772, for the trial of disputed elections to Parliament by committee, after undergoing various amendments by subsequent Acts of Parliament, has been wholly abandoned, and the decision of all such cases turned over to judges learned in the law.

A decision upon a disputed return by Congress, whenever the dispute shall be grave and difficult, and when no authoritative opinion or decision shall have been previously pronounced by competent authority upon it, or upon controlling points raised by it, will almost always be perilous. We shall incur danger of injustice or convulsion, or of both. When the two Houses shall be of one political complexion they will seize without compunction or hesitation the power within their reach; when they shall be opposed politically, there will be a dead lock, with imminent danger of the interposition of corruption or force to produce a result. We must therefore accept the principle of the decision of judicial questions arising in presidential elections, by the courts of law, or by judges thereof, as the only safe and satisfactory plan for their determination, and as the one sanctioned alike by reason and experience.

But there will be cases in which the two Houses of Congress may properly act without the aid of judicial authority, as in a case where the question is upon the right of a new State to vote, Congress having plenary power over its admission into the Union; or when the question is upon the political and social condition of a State, as bearing upon its capacity to cast electoral votes; or when the question concerns the relations of a State to the Union; or upon the republican form of its government, and perhaps others; for all these relate to political conditions connected with congressional jurisdiction and judgment, and are not strictly judicial in character. So, also, there will be questions regarding the formal regularity of returns, necessarily arising in the count of votes, but not necessarily involving a contest requiring regular inquiry and judgment. But it is submitted that the distinction drawn by the Commission Act of the present year, between double returns and a single disputed return from a State, with reference to the action of Congress thereon, cannot be reasonably maintained. The gravest

questions of both law and fact may arise upon a single return from a State, demanding judicial inquiry and decision just as much as questions arising upon double returns, and therefore a plan applied to the latter class of returns should be applied to the former also. It follows that in any general law provided for future cases this distinction should not be made.

It remains to be mentioned, that, in any permanent measure providing for judicial action upon election or electoral returns, the regulation of time will be important. Judicial action should be early invoked, in order that investigation may be thorough and complete before the time for counting the votes by Congress shall arrive, and not at the last moment and when due deliberation and full orderly action cannot be had.

Commission Decisions.

On the 7th and 9th of February the Commission by votes of eight to seven, the members dividing strictly according to party predilections, decided the questions which had been elaborately argued before them upon the Florida returns, by members of the House and by counsel, and fully debated and considered by the Commission itself in private session. Without intending to question the correctness of the decisions arrived at by the Commission, or to convey the slightest imputation upon any of its members, we must say that the character of the divisions upon the votes taken will admonish us of the insecurity of submitting such questions as those in controversy in that case, without fixed and certain rules of judgment, to any tribunal constituted of party men. Where the stake contended for between parties is the presidential office, we cannot expect that any special tribunal organized for the decision of disputes which involve the result of the contest (however such tribunal may be constituted) will be completely impartial, or that its judgments, unregulated by fixed laws, will be certainly just. Therefore the absolute necessity of changes of system which shall render contests upon returns, if not impossible, at least very unlikely to occur, and shall provide comprehensive and judicious rules for the decision of the few which shall occur, becomes the more evident from this experiment of a special tribunal. No tribunal with stronger claims to the possession of ability and dignity, or apparently more independent or impartial in constitu-

tion, can readily be conceived of, or was ever before organized in the United States. It is by the very force of this example — by the strong proof which it affords of the imperfection of all possible schemes for securing unbiassed judicial judgment upon questions of such high concern in the absence of constitutional and statutory regulations, distinctly expressed, and of imperative force — that we are to measure the necessity of amendment, and be impelled upon the road to its attainment.

We may, however, turn our attention from suggestions of statutory and even constitutional regulation of election returns and of contests arising thereon (which, however useful in dealing with results of elections, cannot reach to the fundamental defects of our system), to more radical and effectual changes, which shall extend to the popular elections, and impart to them new significance and value, guarding them against uncertainty of result, and excluding disputes arising therefrom. And from among these we select the one most recent in date, and in our opinion best fitted to secure the objects above mentioned.

The Maish Amendment.

The Resolution for Constitutional Amendment introduced in the House of Representatives, February 7, by Mr. Maish of Pennsylvania, presents a proposition worthy of deliberate examination. It is in some material respects new, but is simple in its terms, strikes an effectual blow at known forms of electoral abuse, and is plainly founded in principles of justice. The Amendment may be conveniently described under three heads of remark: 1st, it provides for a direct vote by the people for President and Vice-President; 2d, it retains electoral votes as at present, while dispensing with electors and electoral colleges; and 3d, it assigns to candidates electoral votes from each State in proportion to popular votes received by them therein. This last feature of the plan is peculiar to it, and, taken with the others, presents a complete scheme of Constitutional Amendment.

A direct popular vote for President and Vice-President is highly desirable, if it can be secured without encountering objections which will outweigh its advantages; and therefore most plans of radical amendment, relating to presidential elections, will comprise or involve it. But the popular majority principle, whether ap-

plied to the whole country without distinction of States or applied to the vote of each State, is open to grave objections. In the former case it converts the whole body of American electors into a consolidated democracy, gives unchecked effect upon the general result to all disturbing and sinister influences which assail elections, and opens a field of inquiry in cases of contest or dispute which cannot be well or safely entered upon by a court or by Congress. In the latter case the plan must be combined with some scheme of State representation or proportional vote, which brings in or retains the idea of State electors or electoral votes, and assigns unjust, because inordinate, weight to State majorities. Besides, within each State it plainly invites to corruption and all forms of undue influence. Nor do we avoid these objections if we modify the plan and provide for taking the popular vote by districts or subdivisions of States, — the majority in each to count as one or more electoral or State votes. A local fraud under such modified plan may expend its force in a single district, instead of contaminating the whole State return, and the general party majority in the State may not, and commonly will not, carry majorities in all the districts, and thus absorb *all* the power of the State in the election. In these respects, however, this modified plan affords but a partial remedy, while it calls into existence an evil and a scandal of the first magnitude, — one fortunately unknown hitherto in presidential elections, — we mean *the gerrymandering of States in the formation of electoral districts.* The competition in injustice and outrage between parties which the plan would inevitably produce would soon become intolerable. But the Maish Amendment, as will be presently seen, is quite free from these imperfections, while it completely accepts and applies the direct popular vote principle. It is, therefore, to be preferred to other plans which, aiming at the same object, can accomplish that object only in disregard of great and permanent objections.

In the next place, the amendment dispensing with electors retains to the States electoral votes as at present, that is, to each a number equal to the number of Senators and Representatives from the State in Congress; and this is, perhaps, a necessary provision in any proposition of change. For, as was explained by an accomplished writer in the last number of the Review, it is not to be expected that the smaller States — including more than one half of

the whole number — will surrender that portion of their power in presidential elections which is now represented by senatorial electors. Such surrender would involve a loss of relative power by each of no less than twenty-one States, ranging from one fourth to two thirds of their present voting power. It follows, that Congress will not pass by a two-thirds vote of each House, nor three fourths of the States accept, an amendment which will dispense with State electoral votes.

Lastly, the Amendment proposes the distribution of State electoral votes among candidates, upon a principle of evident justice and sound policy, to wit, the assignment of such votes in each State to candidates in exact proportion to the popular vote received by them respectively. To exhibit this peculiar and important feature of the Amendment, we will give the exact language in which it is expressed. Omitting some formal changes proposed in the text of the Constitution, and the commencement and conclusion, the Amendment reads as follows: —

"The citizens of each State who shall be qualified to vote for Representatives in Congress shall cast their votes for candidates for President and Vice-President by ballot; and proper returns of the votes so cast shall be made, under seal, within ten days, to the Secretary of State or other officer, lawfully performing the duties of such Secretary in the government of the State, by whom the said returns shall be publicly opened in the presence of the Chief Executive Magistrate of the State, and of the Chief Justice or Judge of the highest court thereof; and the said Secretary, Chief Magistrate, and Judge shall assign to each candidate voted for, by a sufficient number of citizens, a proportionate part of the electoral votes to which the State shall be entitled, in manner following, that is to say, they shall divide the whole number of votes returned by the whole number of the State's electoral vote, and the resulting quotient shall be the electoral ratio for the State, and shall assign to candidates voted for one electoral vote for each ratio of popular votes received by them respectively, and, if necessary, additional electoral votes for successive largest fractions of a ratio shall be assigned to candidates voted for, until the whole number of the electoral votes of the State shall be distributed; and the said officers shall thereupon make up and certify at least three general returns, comprising the popular vote by counties, parishes, or other principal divisions of the State, and their apportionment of electoral votes as aforesaid, and shall transmit two thereof, under seal, to the seat of government of the

United States, one directed to the President of the Senate and one to the Speaker of the House of Representatives, and a third unsealed return shall be forthwith filed by the said Secretary in his office, be recorded therein, and be at all times open to inspection."

By the proportional distribution of electoral votes, based strictly upon the popular vote of each State, several objects of the highest importance will be secured: —

1. It will very greatly reduce, in fact, almost extinguish the chances of a disputed election, by causing the electoral vote of the State to be very nearly a reflex of the popular vote, by confining the effect of fraud and other sinister influences within narrow limits, and by withdrawing the compact, undivided power of any one State from the contest. Giving a just allotment of electoral votes to candidates, not greatly too many or too few, it conforms to the popular sense of justice and tends to allay passion and prevent controversy. It excludes the temptation to falsify or manipulate election returns, by which the whole vote of the State may be wielded in the interest of a party. Under it there would be no rival electoral colleges, or double returns of electoral votes, and pivotal States, inviting to profuse money expenditure, to fraud, and to false returns, would no longer be known as a conspicuous feature of presidential contests.

2. It will render almost impossible the election of a minority candidate in a contest between two, and will in many cases prevent a plurality candidate from receiving an unjust electoral vote, and often from being improperly returned to the House of Representatives as one of the three persons from whom the choice is to be made, in cases where the power of choice shall devolve upon that House. It will secure justice by insuring fair representation of the people, and applying the majority rule to the electoral instead of the popular vote; in other words, all the people will be represented by electoral votes, and the majority principle will be properly applied when the general returns of those electoral votes shall be subjected to computation. Popular disfranchisement within a State will be swept away, while the supporters of no candidate will control more than their due share of electoral power.

3. It will very greatly discourage and prevent unfairness and fraud in elections, by excluding the motives which produce them. In this respect its superiority to other plans of amendment is con-

spicuous and unquestionable. Assuming a ratio of thirty thousand for an electoral vote, a fraudulent vote of ten thousand would mean one third of one electoral vote, — in other words, would mean nothing as to results, — instead of meaning, as it now does in many cases, the balance of power in a State, and the control of its *whole* electoral vote! In a State like New York or Pennsylvania, a fraudulent vote of even thirty thousand or forty thousand would affect but one electoral vote out of thirty or forty cast by the State, instead of transferring all those thirty or forty votes from one candidate to another. Speaking within bounds, the effect of any common fraud in presidential elections would become inappreciable, and the motive for committing such fraud would be wholly removed. Could there be a more complete device for purifying and improving elections than this, or one more imperatively demanded by the necessities of the times? District voting for electors would not extirpate this evil of corrupt elections, for the balance-of-power vote in each district would be the object of money expenditure and evil influence, as we already have them in congressional districts. Ten thousand foul votes in a State might control half a dozen or more districts, while they would be entirely lost when counted in the aggregate or total vote of the State.

One Term for President.

This proposition for constitutional amendment is a favorite one with many of the leading men of our country, whose opinions are entitled to profound respect, and it has the sanction of several great names in our history. But we venture to question the wisdom of that public opinion which has been formed in its favor, and challenge anew the discussion of the question itself. Clearly the examples of the re-election of Washington, Jefferson, Madison, Monroe, Jackson, Lincoln, and Grant may be fitly followed upon future occasions unless an examination of the reasons which support a one-term rule for the presidential office shall justify a change of the Constitution. Looking back over our history, re-elections of President do not appear in an odious light; for no re-election has been the result of corruption or force, nor is there reason to believe that the policy of the government would have been improved if those re-elections had not taken place. On the contrary, there is reason to believe that under a one-term rule government would have been less consistent, intelligent, and successful.

When the Constitution was proposed to the States for adoption, Mr. Jefferson, in a letter from France, which commended its main provisions, objected to the unlimited eligibility of a President for re-election which it permitted or sanctioned. But later in life he pronounced his deliberate judgment to be that, in view of the example set by General Washington of retiring at the end of a second term (an example followed by several of his successors, including Mr. Jefferson himself, and which it was believed no future President would venture to disregard), the Constitution was in a satisfactory form as to this important point, and was a reasonable and judicious compromise between opposing opinions.

The one-term-ism has appeared at several times in our political history as a party argument when a President has been a candidate for re-election, and hence has come to be entertained and approved by many persons, unconsciously, from political bias; and notably it was brought forward when Presidents Jackson and Van Buren were candidates for second official terms. Undoubtedly, from the cause just mentioned, and from the fact that a plausible objection does lie against the candidacy of an actual President, there has grown up a considerable amount of public opinion in the country at large in favor of the one-term principle, and this has been encouraged, if not excited, by formal declarations made by several presidential candidates. General Harrison announced his adhesion to the principle in 1840, as did Mr. Buchanan in 1856, and in 1876 both the leading party candidates in their letters of acceptance gave similar indorsements, one of them expressly pledging himself personally to observe the rule. It is important to observe, however, that the action taken on this subject by Governors Hayes and Tilden was wholly voluntary, no such ground having been taken by the Conventions which placed them in nomination. Both our national parties are, therefore, uncommitted upon this question by any official utterance made by themselves, whilst the ancient practice of the Democratic party when in power, and the recent practice of the Republican party in renominating Presidents Lincoln and Grant, are flatly opposed to the rule. It will become both parties to consider carefully and deliberate upon this much-vaunted proposition before committing themselves irrevocably to its support.

It may admit of question whether the war of the Rebellion was not precipitated upon the country by reason of Mr. Buchanan's

one-term pledge, when he accepted his nomination for the presidential office, and that for a reason to be presently mentioned.

The main argument for one-term-ism is that it is wrong or injudicious to permit a President to use his official influence to promote his re-election; that if a President is permitted to run for re-election, such use of patronage and influence by him and others under him will be inevitable. The fallacy of this argument lies very near the surface, and, one would think, would be detected by any man of reasonable capacity and knowledge of public affairs and of the action of political parties. It is answered by these simple questions, Cannot a President use his official power and influence with much larger effect in favor of another candidate, than for himself? Cannot the office-holders of the country use their power and influence much more efficiently for a new man than they can for their chief? Cannot the President use his power with less of embarrassment, diffidence, or accruing odium in favor of his friend and his party than he can for himself? Accepting the organization of political parties in the country as a fixed fact, and that the passions and interests of party constitute enormous forces in presidential elections, and that a President is a party chief and associated with party leaders, the idea that he will not exert that influence in favor of the candidate of his party is a childish delusion. And he will go beyond this, in ordinary cases, and exert this influence to secure the nomination of a friend as the candidate of his party, so that commonly, if not invariably, the influence of an Administration will be exerted, and often powerfully exerted, for both the nomination and election of the presidential successor. Plainly the one-term theory will be no efficient check against government influence in elections, and in many cases it will largely increase the force and effect of that influence upon them. Government influence exerted in favor of new men will appear less odious and selfish than when exerted by officials in their own favor, and naturally will provoke less of antagonism and a countervailing force of public opinion, which is one of the reasons why it will be more efficient.

If we required an illustration of the truth and justice of these remarks, it will be furnished by the late presidential election. Were political assessments upon officials less in amount or less generally required than they would have been if the President had been a candidate for re-election? Were the able and active

services of the Secretary of the Interior any less useful and efficient for party purposes, because exerted for the election of a new man? Or were the services of another Secretary less influential in the nominating convention than they would have been if put forth for the nomination of his chief? Were the zeal and activity of persons in official station less efficient after the election upon questions and controversies upon disputed States, than they would have been if the continuance of the *personnel* of the old Administration had been at stake? This reference to recent events and actors is not made in any invidious sense, or for purposes of censure, but for the convenient illustration of the views above set forth. If those views are correct, it is clear that the theory of one term will afford no remedy against government influence in our popular elections. Remedies for that abuse are to be sought in other directions, and specially in the direction of civil service reform and in new electoral plans which shall exclude or reduce the motives for influencing elections by illegitimate means. But our view of this subject would be insufficient, if we did not advert to another consideration. The certain consequence of one-term elections would be to keep the country continually engaged in looking up candidates for the Presidential office, and struggling between rivals for nomination would have no pause. As soon as a President was chosen, and even before, the contest for the succession would begin, and the action of the government would be deeply and constantly affected thereby. The repression of individual rivalries at times, with their attendant intrigues and management, is a clear public advantage which one-term-ism would sweep from our system. Upon the accession of Mr. Buchanan, individual rivalries for the succession became active, and afterwards grew more intense, resulting in the spectacle of a broken party, a double nomination with an outlying third party, an election by a popular minority, and civil war. We are not dealing here with the merits of those controversies, individual and public, which characterized the canvass of 1860 and the times which followed, but tracing the operation of general causes the natural or possible effect of brief and ever-changing presidential service upon political action, and upon the practical working of our institutions.

Influenced by some of the above considerations, and to avoid

the supposed evil of frequent elections, one-term-ism has been associated in argument with an extension of the presidential term as to time. It is to be made six or seven years instead of four, and thus the force of the objections to the proposed change is to some extent to be broken. But such extension of term removes the presidential office further from popular control, so that policies condemned by public opinion may be continued for years; one of the objections to the one-term doctrine, hitherto unnoticed, remains in full force, — the withdrawal of a desire in the presidential mind to conciliate public opinion in order to secure a re-election; and intrigue for the succession will be but slightly if at all diminished in force. The frequency of elections, to be sure, would be reduced, and thus far the argument of convenience has place; but quadrennial elections properly organized, with other reforms referred to in this article, would not be too frequent for purposes of popular government, nor be attended by the evils which now beset them.

Finally, upon this subject it may be observed that an amendment to the Constitution to preclude the election of a President for a third term would be simply to put into form and give constitutional force to the wise and settled practice of the government, and would be free from all possible objections.

Résumé.

The changes of system to be recommended from the foregoing considerations, with an additional one intimately connected with them, are, then, the following: —

1. A popular-vote plan for election of President and Vice-President similar to that of the Maish Amendment. 2. A carefully drawn statute regulating contests upon electoral returns. 3. A prohibition of third presidential terms. 4. Fixed terms of service for subordinate civil officers of the United States, those officers to be removable only for cause, and a repeal of so much of the Tenure-of-Office Act as authorizes the Senate to participate in removals. 5. An arrangement of congressional terms and sessions in such manner that an old Congress shall not sit after the election of a new one, either to enact laws or to choose, in a contingency, by a vote of one or the other of its Houses, a President or Vice-President of the United States.

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